THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23208 OF 2005

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Between:

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B.Kasinadham

.. Petitioner

and

State of A.P., and others

.. Respondents

.. Respondent

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23208 OF 2005

ORDER:

The petitioner was employed as a Typist in the third respondent-college. Disciplinary proceedings were initiated against him and he was not permitted to attend the duties with effect from 11.08.1988. Complaining that the same amounts to termination of service, contrary to law, the petitioner preferred an appeal before the Government, the first respondent. Through its orders in G.O.Rt.No.1838, dated

13.12.1997, the first respondent directed reinstatement of the petitioner. However, the period of absence of the petitioner was directed to be treated as leave, as per eligibility. The petitioner feels aggrieved by the direction of the first respondent for treating the period of absence as leave as per eligibility.

The learned counsel for the petitioner submits that when the absence of the petitioner was on account of the refusal on the part of the third respondent to take him on duty, the first respondent was not justified in directing that period to be treated as leave, as per eligibility. He further contends that though the petitioner made several representations in this regard, the first respondent has not taken any action.

The learned Government Pleader for Higher Education, on the other hand, submits that it is too late for the petitioner to raise that plea, particularly when his reinstatement was in pursuance of a direction issued by this Court in W.P.No.34138 of 1997.

The appeal preferred by the petitioner against the removal was allowed by the first respondent, through its order in G.O.Rt.No.1838, dated 13.12.1997. While directing the reinstatement, the first respondent observed that the period of absence shall be treated as leave as per eligibility. If the petitioner was aggrieved by this condition, he ought to have filed a writ petition before this Court, immediately thereafter.

There is one factor which disables the petitioner from raising that plea, at this stage. The third respondent filed W.P.No.34138 of 1997 challenging the orders of the first respondent in G.O.Rt.N.1838, dated 13.12.1997, impleading the petitioner as the second respondent. It was open to the petitioner to point out his grievance about the denial of the benefit in relation to the period of absence. Neither an independent writ petition was filed nor a plea similar to Cross-objections, was raised in that writ petition. This Court disposed of the writ petition on 04.03.1998 directing that the petitioner shall be reinstated into service with effect from 16.03.1998. The order in G.O.Rt.No.1838, dated 13.12.1997, was accorded finality in all respects. Therefore it

is not open to the petitioner to challenge any conditions or clauses in the said findings, at this stage.

The writ petition is accordingly dismissed.

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28.10.2005

kdl